

ADOPTION PROCEDURES AND FORMS

This Memorandum supersedes all previous Family Court memoranda regarding adoption and will be effective **June 1, 2002.**

I. CASE FLOW

A. PETITION FOR ADOPTION (CONSENT):

This petition should be used if **all** consents required pursuant to Section 578-2(a) of the Hawai'i Revised Statutes, as amended, have been obtained.

The Court will not review the Petition for Adoption (Consent) prior to filing. All documents listed in the Initial Documents to Be Filed section below and any subsequent filings should be presented for filing at the Documents Receiving Section of the Legal Documents Branch located on the first floor of 777 Punchbowl Street, Honolulu, Hawaii. The hours for filing said documents are 8:00 a.m. to 4:15 p.m., Monday through Friday, except State Holidays. The cost to file the petition is \$100.00 + \$25.00 (surcharge) for a total of \$125.00. There are no additional costs to file a motion in an adoption case.

1. INITIAL DOCUMENTS TO BE FILED:

- a. Petition for Adoption (Consent)
- b. Adoption Information Sheet
- c. Notice to DHS of Pendency of Action
- d. List of Exhibits (The following documents should be attached to the List of Exhibits:
 - 1) Certified copy of Child's Birth Certificate (Copy must be certified by the custodian of records from where the certificate was issued. This copy will not be returned as after this adoption is completed, a new birth certificate will be issued with the name of the adoptive parent(s).
 - 2) Medical Certificate for the Child
 - 3) Death Certificate of Parent(s), if applicable
 - 4) Consent by Child (Age 10 or Over) to Adoption, if applicable.
 - 5) Consent(s) of Parent(s). One of the following forms should be obtained from each living parent:
 - a) Specific Consent to Adoption of []Mother []Father []Other.
 - b) General Consent to Adoption of []Mother []Father []Other.

- c) Release of Child for Adoption. (**NOTE:** This form is specifically for an alleged natural father to sign. A legal or adjudicated father should not use this form.)
 - 7) Marriage Certificate of Petitioner(s), if applicable
 - 8) Affidavit of Adoptive Parent (Re: HRS Section 578-15) (**NOTE:** The statute does now allow for the waiver of this requirement.)
 - 9) Copy of Divorce Decree(s) for Petitioner(s) or Legal Parent
 - 10) Selection and Approval of Adoptive Parent(s) (by person authorized to place the child for adoption), if applicable
 - 11) ICPC 100A Form, if applicable (**NOTE:** Interstate Compact for the Placement of Children requirements must be met if a child is transported from one state to another for the purpose of adoption.)
 - 12) Copy of Adoptive Home Study, if child was placed by an agency or if ICPC applies
 - 13) Affidavit of Birth Background, if applicable
 - 14) Consent of Legal Custodian or Guardian, if applicable
 - 15) Copy of Order Appointing Guardian of the Person of a Minor
 - 16) Any other exhibit(s) which may support the granting of the petition for adoption.
 - e. Envelope w/Medical Information Fly Sheet attached which includes the following documents in the envelope:
 - 1) Medical Record Release Form (One for each natural parent)
 - 2) Medical Information Form (One for each natural parent)
 - 3) Mother's medical records of the child(ren)'s birth and mother's release of the records

NOTE: If any of the above is unavailable, an ex parte motion to waive this requirement must be submitted to the Court.
2. MAILING OF NOTICE TO DIRECTOR OF THE DEPARTMENT OF HUMAN SERVICES (DHS)
- a. A filed copy of the Notice to DHS of Pendency of Action and a copy of the Adoption Information Sheet must be mailed to the Director of Human Services at the address reflected on the notice, by certified mail, return receipt requested.
 - b. The Director has twenty-one (21) days after receipt of the notice to investigate and file a written report as to the fitness of the petitioner(s) to adopt the individual(s).

3. DOCUMENTS FILED SUBSEQUENT TO INITIAL FILING, BUT PRIOR TO HEARING
 - a. Statement of Mailing; Exhibits "1" and "2" (Re: Notice to DHS)
 - b. Adoption Hearing Flag Sheet. (**NOTE:** This document is to be filed after all required exhibits and documents have been filed.)
4. SUBMITTAL OF ADOPTION HEARING FLAG SHEET TO ADOPTION CLERK (AC)

A **filed** copy of the Adoption Hearing Flag Sheet shall be submitted to the AC located at the Family Court-Court Management Office, 777 Punchbowl Street, Second Floor. In approximately ten (10) working day after the submittal of the flag sheet to the AC, the AC will review the flag sheet and the case file, then prepare a Notice of Case Status/Deficiencies Sheet.

If the case has all the required documents filed and/or submitted, the case may be set on the adoption self setting calendar board in the Court Management Office. The AC will provide you with the tab to set the case on the board. An original blank form of the Certificate of Adoption will also be given to you for each adoptee.

If your case lacks the required documents, you will not be allowed to set your case until all documents have been filed and/or submitted. Filed copies of missing documents should be submitted to the AC with a cover letter reflecting whether all documents have been filed and/or submitted. If all requirements have been met, the AC will prepare a Notice of Case Status/Deficiencies Sheet reflecting approval to set your case, a tab to place on the self-setting adoption calendar board, and an original blank form of the Certificate of Adoption.

B. PETITION FOR ADOPTION (NON-CONSENT):

A Petition for Adoption (Non-Consent) must be used if any consent(s) required pursuant to HRS §578-2(a) have not been obtained or if parental rights have been terminated or divested pursuant to HRS §578-2(c)(1)(F) or (K).

Prior to filing, the Petition for Adoption (Non-Consent) and service document(s) must be submitted to the Adoption Clerk (AC) located in the Family Court-Court Management Office located on the second floor at 777 Punchbowl Street, Honolulu, Hawai'i. Service documents include Proof of Service, Affidavit of _____ (supporting service by publication), Order for Personal Service without the State, Order for Service by Mail and/or Order

for Service by Publication. The AC will review the documents and forward the documents to the judge. if necessary, then forward the documents to the calendar clerk to obtain a hearing date. The documents will be returned to the submitting party for filing at Legal Documents.

1. INITIAL DOCUMENTS TO BE FILED:

- a. Petition for Adoption (Non-Consent). The following documents attached should be attached to the petition:
 - 1) If the non-consenting parent(s) live in the State of Hawaii:
 - a) Summons.
 - 2) If the non-consenting parent(s) do not live in the State of Hawaii:
 - a) Supporting Affidavit (For Service by Mail or Personal Service without the State)-If the non-consenting parent does not live in the State of Hawai'i or Affidavit of _____ (supporting service by publication).
 - b) Order for Personal Service Without the State or Order for Service by Mail or Order for Service by Publication
 - c) Notice of Time and Place of Hearing (By Mail or Personal Service Without the State) or Notice of Time and Place of Hearing (By Publication)
 - d) If service is being made by publication, the Publication Notice also needs to be submitted. This is the document that will be submitted to the newspaper.
 - e) Any exhibits in support of the request for service.
- b. Adoption Information Sheet.
- c. Notice to DHS of Pendency of Action.
- d. List of Exhibits (The following documents should be attached to the List of Exhibits:)
 - 1) Certified copy of Child's Birth Certificate (Copy must be certified by the custodian of records from where the certificate was issued. This copy will not be returned as after this adoption is completed, a new birth certificate will be issued with the name of the adoptive parent(s).
 - 2) Medical Certificate for the Child
 - 3) Death Certificate of Parent(s), if applicable.
 - 4) Consent by Child (Age 10 or Over) to Adoption, if applicable

- 5) Consent(s) of Parent(s), if available:
 - a) Specific Consent to Adoption of []Mother []Father []Other
 - b) General Consent to Adoption of []Mother []Father []Other
 - c) Release of Child for Adoption (**NOTE:** This form is specifically for an alleged natural father to sign. A legal or adjudicated father should not use this form.)
 - 6) Marriage Certificate of Petitioner(s), if applicable
 - 7) Affidavit of Adoptive Parent (Re: HRS Section 578-15) (**NOTE:** The statute does now allow for the waiver of this requirement.)
 - 8) Copy of Divorce Decree(s) for Petitioner(s) or Legal Parent
 - 9) Selection and Approval of Adoptive Parent(s) (by person authorized to place the child for adoption), if applicable
 - 10) ICPC 100A Form, if applicable (**NOTE:** Interstate Compact for the Placement of Children requirements must be met if a child is transported from one state to another for the purpose of adoption.)
 - 11) Copy of Adoptive Home Study, if child was placed by an agency or if ICPC applies
 - 12) Affidavit of Birth Background, if applicable
 - 13) Certified copy of the Order or Judgment for Termination of Parental Rights, if applicable
 - 14) Certified copy of the Order Awarding Permanent Custody
 - 15) Copy of the Order Appointing Guardian of the Person of a Minor
 - 16) Any other exhibit(s) which may support the granting of the petition for adoption
- e. Envelope w/Medical Information Fly Sheet attached which includes the following documents in the envelope:
- 1) Medical Record Release Form (One for each natural parent)
 - 2) Medical Information Form (One for each natural parent)
 - 3) Mother's medical records of the child(ren)'s birth and mother's release of the records

NOTE: If any of the above is unavailable, an Ex Parte Motion to Waive this requirement must be submitted to the Court.

2. MAILING OF NOTICE TO DIRECTOR OF THE DEPARTMENT OF HUMAN SERVICES (DHS)
 - a. A filed copy of the Notice to DHS of Pendency of Action and a copy of the Adoption Information Sheet must be mailed to the Director of Human Services at the address reflected on the notice, by certified mail, return receipt requested.
 - b. The Director has twenty-one (21) days after receipt of the notice to investigate and file a written report as to the fitness of the petitioner(s) to adopt the individual(s).
3. DOCUMENTS FILED SUBSEQUENT TO INITIAL FILING, BUT PRIOR TO HEARING
 - a. Statement of Mailing; Exhibits "1" and "2" (Notice to DHS)
 - b. Service Documents (**NOTE:** See Section IB4 below to determine document filing deadline.)
 - 1) Proof of Service: If service of the petition and summons was made within the state.
 - 2) Statement of Mailing; Exhibits A and B: If service of the petition and notice of time and place of hearing was done by certified or registered mail.
 - 3) Affidavit of Service: If service was made by a person authorized to effect service in the state in which the non-consenting parent lives.
 - 4) Affidavit of Publication. (**NOTE:** The Affidavit of Publication is usually submitted to the Court by the publishing newspaper.)
 - c. Adoption Hearing Flag Sheet
4. SUBMITTAL OF ADOPTION HEARING FLAG SHEET TO ADOPTION CLERK (AC)
 - a. For Personal Service within the State
 - 1) The return date on the summons is the first Tuesday at 8:30 a.m., ten (10) days after receipt of the petition and summons by the non-consenting parent.
 - 2) The Proof of Service and the Adoption Hearing Flag Sheet shall be filed at least seven (7) days prior to the scheduled hearing.
 - 3) A filed copy of Proof of Service shall be forwarded to the Adoption Calendar Clerk and a filed copy of the Adoption Hearing Flag Sheet shall be forwarded to the Adoption Clerk (AC) both located in the Family Court-Court Management Office, 777 Punchbowl Street, Second Floor.
 - 4) The AC will prepare a Notice of Case Status/Deficiencies Sheet reflecting any documents or exhibits which are missing from the case file. Any missing documents or exhibits shall be filed at least 24

hours prior to the hearing and a filed copy forwarded to the AC.

- b. Personal Service without the State (Either by Mail or Personal Service):
 - 1) The petition and notice of time and place of hearing shall be served on the non-consenting parent at least twenty-one (21) days prior to the scheduled hearing.
 - 2) The Statement of Mailing; Exhibits A and B or Affidavit of Service and the Adoption Hearing Flag Sheet shall be filed at least seven (7) days prior to the scheduled hearing.
 - 3) A filed copy of the flag sheet shall be forwarded to the AC located in the Family Court-Court Management Office, 777 Punchbowl Street, Second Floor.
 - 4) The AC will prepare a Notice of Case Status/Deficiencies Sheet reflecting any documents or exhibits which are missing from the case file. Any missing documents or exhibits shall be filed at least 24 hours prior to the hearing and a filed copy forwarded to the AC.

C. SUBMITTAL OF FINAL DOCUMENTS

The following documents shall be submitted to the court clerk immediately after the court hearing or within ten (10) days after the hearing.

- 1. Findings and Decision of the Court Granting Petition for Adoption (Original + 1 copy, original + 4 copies for cases involving immigration)
- 2. Adoption Decree (Original + 3 copies for non-military and non-immigration cases; original + 4 copies for cases involving military benefits; original + 6 copies for cases involving immigration; original + 7 copies for cases involving military benefits and immigration)
- 3. Certificate of Adoption. (Submit original only. This form can not be photocopied. You must use the form provided by the Court.)
- 4. Interim Letter (**NOTE:** Family Court Letterhead to prepare the Interim Letter may be obtained at the Family Court-Court Management Office.)
- 5. For pro se petitioner(s) or attorneys who do not have a court jacket at the Legal Documents Branch, a self-addressed, stamped envelope so that certified copies of the findings and decree can be mailed out after filing.

D. POST HEARING PROCESS

1. After being signed by the presiding judge, the Findings and Decision of the Court Granting Petition for Adoption and the Adoption Decree are forwarded to the Legal Documents Branch for filing. Certified copies of the findings and decree will be placed in the Legal Documents court jacket of the attorney or mailed.

The attorney of pro se petitioner is responsible for distribution of all copies of the Findings and Decree.

2. NEW BIRTH CERTIFICATE

It is the responsibility of the attorney or pro se petitioner to contact the appropriate vital records office, where the child was born, to obtain a copy of the child's new birth certificate after adoption. If the child was born in a foreign country, the Hawaii State Department of Health will prepare a Certificate of Foreign Birth for the child.

II. ADOPTION FORMS

The following adoption forms have been amended to be more user friendly. Information can be either typed or legibly printed in black ink. The forms have been made to suit the more common adoption cases, but should be amended and/or added to, in order to conform to the specific facts of each case.

- A. ADOPTION DECREE (of minor): The original and appropriate number of copies should be submitted to the court immediately after the adoption hearing or within ten (10) days after the hearing.
- B. ADOPTION HEARING FLAG SHEET: In consent cases, to be filed and submitted to the Adoption Clerk after all necessary documents and exhibits have been filed. In non-consent cases, to be filed and submitted to the Adoption Clerk at least seven (7) days prior to the scheduled hearing.
- C. ADOPTION INFORMATION SHEET: Reflects information regarding the child, adoptive parents and the child's natural and/or legal parents.
- D. AFFIDAVIT OF ADOPTIVE PARENT (RE: HRS SECTION 578-15): This affidavit satisfies the requirements of HRS §578-15 regarding confidentiality of adoption records, is mandatory for adoption cases and cannot be waived. This form must be signed by each adoptive parent in front of a notary public.
- E. CONSENT BY CHILD (Age 10 or over) TO ADOPTION: Any child 10 years and older must consent to the adoption. The child's signature must be witnessed by a person not a party to the adoption.

- F. EX PARTE MOTION AND AFFIDAVIT FOR CUSTODY OF CHILD(REN) PENDENTE LITE; ORDER: This form should be submitted to the court when adoptive parent(s) need an temporary custody order to obtain benefits for the child pending the finalization of the adoption. The Ex Parte Motion and Affidavit section of this form needs to be signed by the adoptive parent in front of a notary public.
- G. FINDINGS AND DECISION OF THE COURT GRANTING PETITION FOR ADOPTION: The original and the appropriate number of copies of this document should be submitted to the court immediately after the adoption hearing or within ten (10) days after the hearing.
- H. GENERAL CONSENT TO ADOPTION OF []MOTHER []FATHER []OTHER: This consent is used in cases where the natural parent does not know the identity of the adoptive parent(s). By signing this form, the natural parent) authorizes an agency or another person to select and approve adoptive parents on their behalf. This general consent also includes HRS §578-15 language regarding confidentiality of adoption records. This form must be signed in front of a notary public.
- I. LIST OF EXHIBITS []SUPPLEMENTAL: Exhibits submitted in support of the petition for adoption must be attached to a List of Exhibits. Each exhibit must be numbered, labeled and tabbed.
- J. MEDICAL CERTIFICATE FOR THE CHILD: This form must be completed by the child's doctor. The doctor should reflect the physical and mental condition of the child.
- K. NOTICE OF TIME AND PLACE OF HEARING (By Mail or Personal Service Without the State): This form is to be attached to the Petition for Adoption (Non-Consent) when requesting that service of petition be effected by mail or personal service without the state. This form includes HRS §578-15 language regarding confidentiality of adoption records.
- L. NOTICE OF TIME AND PLACE OF HEARING (By Publication): This form is to attached to the Petition for Adoption (Non-Consent). The child's name is not reflected on this form as this notice will be published in the newspaper. For the child's identification purposes, the natural mother's name is reflected on this notice. This form includes HRS §578-15 language regarding confidentiality of adoption records.
- M. NOTICE TO DHS OF PENDENCY OF ACTION: In all adoption cases, the Director of Human Services must be given notice of the pending adoption. This notice must be mailed to the Director, along with a copy of the Adoption

Information Sheet, by certified mail, return receipt requested.

- N. ORDER FOR PERSONAL SERVICE WITHOUT THE STATE: This form must be attached to the Petition for Adoption (Non-Consent) when requesting that the non-consenting parent(s), who does not live in the State of Hawaii, be served by a person authorized to effect in the state that the non-consenting parent(s) lives.
- O. ORDER FOR SERVICE BY MAIL: This form must be attached to the Petition for Adoption (Non-Consent) when requesting that the non-consenting parent(s), who does not live in the State of Hawaii, be served by certified or registered mail.
- P. ORDER FOR SERVICE BY PUBLICATION [] and Mailing of Notice: This form must be attached to the Petition for Adoption (Non-Consent) when requesting the non-consenting parent(s) be served by publishing a notice in the newspaper.
- Q. PETITION FOR ADOPTION (Consent): This petition should be used if all consents required by HRS §578-2(a), as amended, have been obtained. If parental rights have been terminated or divested, the Petition for Adoption (Non-Consent) should be used.
- R. PETITION FOR ADOPTION (Non-Consent): This petition should be used if any consents required by HRS §578-2(a) have not been obtained or if parental rights have been terminated or divested.
- S. PUBLICATION NOTICE: This notice should be submitted, separately, with the Petition for Adoption (Non-Consent) and its attachments when requesting service by publication. This notice is sent to the newspaper, by the attorney or petitioner pro se, to be published.
- T. RELEASE OF CHILD FOR ADOPTION: This form is for use in cases where the alleged natural father of the child is uncertain as to his paternity of the subject child. It should not be used if the father of the child is a legal or adjudicated father. This form must be signed by the alleged natural father in front of a notary public.
- U. SPECIFIC CONSENT TO ADOPTION OF []MOTHER []FATHER []OTHER: This consent is used in cases where the natural parent(s) knows the identity of the adoptive parent(s). This specific consent includes HRS §578-15 language regarding confidentiality of adoption records. This form must be signed in front of a notary public.
- V. STATEMENT OF MAILING; EXHIBITS "1" AND "2" (Mailing of Petition and

Notice by certified or registered mail): The document must be filed at least seven (7) days prior to the scheduled hearing. The Certified Mail Receipt (white receipt) must be attached as Exhibit 1 and the Domestic Return Receipt (green receipt) must be attached as Exhibit 2.

- W. STATEMENT OF MAILING; EXHIBITS "1" AND "2" (Notice to DHS): Notice to the Director of Human Services, must be done by certified mail, return receipt requested. The Certified Mail Receipt (white receipt) must be attached as Exhibit 1 and the Domestic Return Receipt (green receipt) must be attached as Exhibit 2. This document should be filed immediately upon receipt of the Domestic Return receipt.
- X. SUMMONS: This form is to be attached to the Petition for Adoption (Non-Consent) if the non-consenting parent(s) live in the State of Hawaii. The Summons includes HRS §578-15 language regarding confidentiality of adoption records.
- Y. SUPPORTING AFFIDAVIT (for service by mail or personal service without the state): This form must be attached to the Petition for Adoption (Non-Consent) when requesting that service on the non-consenting parent be done by mail or personal service without the state. This form must be signed by the petitioner in front of a notary public.